GOVERNMENT OF INDIA
FINANCE
LOK SABHA

UNSTARRED QUESTION NO:4289
ANSWERED ON:11.08.2017
Action against Guarantor
Devi Smt. Rama

Will the Minister of FINANCE be pleased to state:

(a) whether there is any provision in banking law to take action against the guarantor in case the borrower fails to repay their loans;

(b) if so, the details thereof and rules in this regard;

(c) whether the banks have taken any action against the guarantors during the last three years; and

(d) if so, the details thereof, bank-wise?

Answer

The Minister of State in the Ministry of Finance

(a) to (d): Reserve Bank of India (RBI) has informed that with regard to the guarantors, in terms of Section 128 of the Indian Contract Act, 1872, the liability of the surety is co-extensive with that of the principal debtor unless it is otherwise provided by the contract. Therefore, when a default is made in making repayment by the principal debtor, the banker will be able to proceed against the guarantor / surety even without exhausting the remedies against the principal debtor. As such, where a banker has made a claim on the guarantor on account of the default made by the principal debtor, the liability of the guarantor is immediate. In case the said guarantor refuses to comply with the demand made by the creditor / banker, despite having sufficient means to make payment of the dues, such guarantor would also be treated as a wilful defaulter.

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